19 41

File No. L.O.R Accts 41

Legal **DEPARTMENT**

C **BRANCH**

K

5/6

Subject:—

Law Officers Rules and Accounts

P 28

File No. L.O.R. Accts 141

Std. Sectt. Slip 24 B a.

225 C

C o n t e n t s.

Legal Department. Volume I. G. R. Asstts/41.

- 1941 -

Sr.No.	Correlation No.	Subject.	Pages.
	L.G.R.Asstts/41	Law Officers Rules and Accounts.	
1.	R.I.No.13727 30-11-39.	Printing of correction slips to the Law Officers (Conditions of service) Rules and Rules for the conduct of Legal Affairs of Government.	1-75. (Pgs. 7-11; 17-25; 31; 35-54; 57-65 not copied)
2.	G.R.G.D.No.1084/33. 6-2-41.	Report of the Local Self Government Committee, Bombay, 1939.	77-87. (Pgs 77-79 & 83-85 not copied)
	R.I.No.288 2018 3-3-40		
3.	S.1(a).1.1/41 5-5-41	A letter from the Government of India - sub-rules (2) of rule 24 of the Law Officers (Conditions of service).	89-107. (Not copied)
	R.I.No.4220 8-5-41.		
4.	R.A.Dr. 7752 2-9-41.	Rule 197(3) of the Law Officers Rules.	109.
5.	L65.1941 7-5-41.	A letter from Ex-Hon.Asstt. to the Govt. Pleader, Belgaum. Misc.No.13 of 1939. Bills of fees and Law charges.	111-131. (Pgs 113-125 not copied)
	R.I.No.4326 12-5-41.		
6.	G.R.No.3223 9-4-41.	Fees and Law Charges - Payment of to the Sub-Government Pleader. Decretal in Reg. Darkhast No. 500 of 1936.	133-159. (Pgs 133-155 not copied)
7.	D.A.111/SD/1334 8-10-41.	Application of Rule 214 of Law Officers' Rules.	161-169. (Pgs. 163-167 not copied)

SKT/25.5.

11/5

ADVOCATE GENERAL'S CHAMBERS, 1-5

HIGH COURT,

Bombay, 29th November 1939.

From,

Motilal C. Setalvad, Esquire,

Advocate General.

To,

The Secretary to the Government of Bombay,

Legal Department.

Sir,

I desire to draw attention to the Law Officers' (Conditions of service) Rules recently published by Government.

Rule 4(1) provides that all Law Officers' hold ——— office during the pleasure of Government. Rule 3 states that these Rules apply, inter alia, to the Advocate —— General. Rule 2(c) defines "Government" as meaning the Government of Bombay, except where the context otherwise indicates.

The result of the above mentioned rules is to lay down that the Advocate General holds office during the - pleasure of Governm This provision in the rules is inconsistent with Section 55(3) of the Government of India Act, which provides, inter alia, that the Advocate General shall hold office during the pleasure of the Governor. It would not be competent in making rules under the Act to make a rule inconsistent with the provisions of the - Act; and, in my opinion, Rule 4(1), is so far as it applies to the Advocate General. is ultravires of the Act, and, therefore, incompetent.

In my report to Government dated the 22nd day of - February 1939 in reference to these rules which were than propos to be enacted, I had pointed out that the proposed provisions of Rule 4, is so far as they were not in conformity with the provis of Section 55 of the Government of India Act, would not be compe This appears to have - escaped attention.

Curiously enough, Rule 10, which enumerates, inter-ali certain rules, which do not apply to the Advocate —— General,

P.T.O.

Advocate ——General omits to specify Rule 4(1) as being inapplicable to the case of the Advocate General, but that rule states that the provisions of Rule 4 including Sub-Rule (1) do not apply to the Solicitors to Government.

Rule 11(3) provides, inter alia, that the Advocate General shall not be entitled to any fees for appearing in all suits and proceedings on the Original Side of the High - Court, in which he appears on behalf of Government, or in which Government directs him to appear on behalf of some —— other person. I understand that upto now the practice in suits and proceedings on the Original Side has been that the brief of the Advocate General is marked with fees "if recovered", and that in the event of the Government or the party on whose behalf the Advocate General appears under the directions of Government recovering the fees from the other side, the Advocate General becomes entitled to the payment of the fees so recovered. It was obviously not the intention of Government in framing Rule 11(3), Sub-Rules (a) and (b) to alter this practice which has prevailed, I understand ever since the Original Side came into existence. The rule, as framed, however , is capable of being interpreted to exclude the payment of "if recovered" fees to the Advocate General. This has been pointed out to me recently by the Solicitors to Government. I would therefore suggest a —— Clarification of alteration of this rule.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- M.C.Setalvad.

Advocate General

SMT/26.5.

No. 13346

Legal Department.

Bombay Castle, 22nd December 1939.

From

J.R.Dharamdhar, Esquire, O.B.E.,

Secretary to the Government of Bombay;

To

The Advocate General,

Bombay.

Subject, ~~Law Officers' Rules.~~
Revision of the ...

Sir,

With reference to paragraphs 2 to 5 of your letter dated the 29th November 1939 on the above subject, I am directed to state that the view taken in your above letter does not appear to be correct. Section 49 of the Government of India Act, 1935, provides that the executive authority of a Province shall be exercised on behalf of His Majesty by the Governor of the Province (see also section 59). All the powers of the Provincial Government are therefore exercisable by the Governor only. The Act however provides that the Governor, in exercising these powers, may act in three different ways, viz., (i) in his discretion, (ii) in his individual judgment, or (iii) with the aid and advice of his Ministers (see section 50). Attention in this connection is invited to paragraph VIII of the Instrument of Instructions. Wherever it is intended that the Governor should act in his individual judgment or in his discretion, special provision in that behalf is made in the Act (see for instance sections 55(4) and 57(3)). The expressions "the Governor", "the Governor of a province", "the Government of a Province", "the Provincial Government" and the "Province" are often used in the same sense in the Act. Thus in section 55(2), 82(3) and 241(1)(b) the "Governor" ~~means~~ means the Governor acting with the aid and advice of his Ministers. In the same sense are used the expressions (i) "The Governor of a Province" in section 241(2)(b), (ii) "the Government of a Province" in sections 129 and 130, and (iii) "the Provincial Government" in section 168.

P.T.O.

in section 168. The term "Provincial Government" is also used in sections 55(2), 59, clause (c) of proviso to section 82(1) sections 143, 173(4), 176 and 297 but as will be obvious from the context, the term as used at least in sections 55(2),84, 176 and 297 also includes the Governor acting in his discretion and in his individual judgement.

2. The expression "Government of Bombay" or "the Provincial Government" cannot therefore be construed to mean the Governor acting with the aid and advice of ministers only. The proper construction that should be put on the expression is, Governor acting in any one of the three ways referred to above according to the provision made in that behalf in the Act. This is also the view taken by Parliament in making adaptations in the Indian Laws. Attention is in this connection drawn to the definition of the term "Provincial Government" contained in clause 43(a) of section 3 of the General Clauses Act, 1897, introduced by the Adaptation Order in Council, 1937, with reference to the use of this term in all the Indian enactments in force. It means as respects anything done or to be done after commencement of Part III of the Government of India Act, 1935, in a Governor's Province the Governor acting or not acting in his discretion, and exercising or not exercising his individual judgement according to the provision in that behalf made by or under the said Act.

3. The expression "Government of Bombay" has been used in the Law Officers (Conditions of Service) Rules in the same sense. As under section 55(4) of the Government of India Act the powers with respect to the appointment and dismissal of the Advocate General are exercisable by the Governor acting in his individual judgement, the Governor will exercise his individual judgement if an occasion arises for the use by him of powers under Rule 4(1) in regard to the Advocate General. It will thus appear that there is nothing in the rule which is inconsistent with the provisions of section 55 of the Government of India Act and that the rule requires no amendment.

4. With regard to paragraph 6 of your letter under reply, a separate communication will be sent to you shortly.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/-

Per Secretary to the Government of Bombay,

Legal Department.

SHT/26.5.

Notification.

Legal Department.

Bombay Castle, April 1940.

No. In exercise of the powers conferred by section 55 and clause (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor of Bombay is pleased to amend the Bombay Law Officers (Conditions of Service) Rules, 1939, published in Government Notification, Legal Department, No.8493, dated the 23rd August 1939, as follows, namely:-

In rule 11 of the said rules,

(1) in sub-rule (3) clauses (a) and (b) shall be deleted and clauses (c), (d) and (e) shall be re-numbered as clauses (a), (b) and (c) respectively;

(2) after sub-rule (3) the following sub-rule shall be inserted, namely:-

"(3A) The Advocate General shall be entitled to such fees as are recovered from the other parties in the following cases:-

(a) in all suits and proceedings on the Original Side of the High Court in which he appears on behalf of Government;

(b) in any suit or proceedings on the Original Side of the High Court in which Government directs him to appear, whoever the nominal party on whose behalf he is directed to appear may be";

(3) for sub-rule (4) the following sub-rule shall be substituted, namely:-

"(4) If the Advocate General appears

(P.T.O.

on behalf of or ~~against~~ ~~persons~~ under the orders of Government ~~in~~ any proceedings ~~had~~ before the High Court other than those mentioned sub-rules (3) and (3A) of this rule, he shall be entitled to a fee ~~as~~ Rs 150 per day for each hearing and Counsel of Rs.60 for an exparte application."

(4) in sub-rule (5), after the figure "3" the figure and letter "3A" shall be inserted.

By order of the Governor of Bombay,

Secretary to Government.

SMT/26.5.

No. 3604

Legal Department,

Bombay Castle, 11th April 1940.

From

J. R. Dhurandhar, Esquire, O.B.E.

Secretary to the Government of Bombay.

To

The Advocate General,

Bombay.

Subject:- Law Officers' Rules: Revision of the ——

Sir,

With reference to the correspondence ending with this Department letter No.13346, dated the 22nd December 1939, on the above subject, I am directed to forward herewith a copy of the draft amendments proposed to be made in rule 11 of the Law Officers (Conditions of Service) Rules, 1939, for your remarks.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/-

For Secretary to the Government of Bombay

Legal Department.

SSI/26.5.

ADVOCATE GENERAL'S CHAMBERS,

HIGH COURT,

Bombay, 7th August 1940.

From

Motilal C. Setalvad, Esquire, J.P.,

Advocate General.

To

The Secretary to the Government of Bombay,

Legal Department.

Subject:-Law Officers' Rules:
Revision of the ——

Sir,

Referring to your letter No.3604 dated the 11th day of — April 1940 and the Memorandum dated the 16th day of July 1940 in reference thereto, I have to state that I approve of the Draft Amendments proposed to be made in Rule 11 of the Law Officers - (Conditions of Service) Rules, 1939, copy whereof was enclosed with the said letter.

I have the honour to be,

Sir,

Your most obedient servant,

sd/- M.C.SETALVAD.

Advocate General.

SMT/26.5.

Government of Bombay.

Legal Department.

First list of corrections to the Law Officers (Conditions of Service) Rules, and Rules for the Conduct of Legal Affairs of Government.

The Law Officers
(Conditions of Service) Rules.

No. 1.

Page 4, Rule 11 -

In rule 11 -

(1) in sub-rule (3), clauses (a) and (b) shall be deleted and clauses (c), (d) and (e) shall be renumbered as clauses (a), (b) and (c), respectively;

(2) After sub-rule (3), the following sub-rule shall be inserted, namely :-

"(3A) The Advocate General shall be entitled to such fees as are recovered from the other parties in the following cases :-

(a) in all suits and proceedings on the Original side of the High Court in which he appears on behalf of Government; and

(b) in any suit or proceeding on the Original Side of the High Court in which Government directs him to appear whoever the nominal party on whose behalf he is directed to appear may be ";

(3) for sub-rule (4), the following sub-rule shall be substituted:-

"(4) If the Advocate General appears on behalf of or under the orders of Government in any proceedings before the High Court other than those mentioned in sub-rules (3) and (3A) of this rule, he shall be entitled to a fee as Counsel of Rs.150 per day for each hearing and Rs. 60 for an ex-parte application.";

Submitted with pp.

2. These papers relate to the amendments to the Revised Law Officers (Conditions of Service) Rules and the Rules for the Conduct of Legal Affairs of Govt.

3. The F.D. to whom the proposed amendments were referred have accepted them subject to the change that the proposed rules 11 to 13 may be renumbered 10(A), 10(B) and 10(C) respectively.

4. The necessary change has been made in the Statement B.

5. These papers may now be submitted to A(H).

J.D. 30/1

Supdt. Sd/- 31/1

S.H.S. Asstt. Sd/- 1/2

A.L.R. S.A.O. Sd/- 7.2.41

D.S. Sd/- 10/2

Secy. Sd/- P.M.M. 12/2

A(H). Sd/- 13/2/41

(4) in sub-rule (5), after the figure "3" the figure and letter "3A" shall be inserted.

(G .N.L.D.No.3366 dated 17th March 1941)

No.2.

Page 5, Rule 16 -

In rule 16 after clause (e), the following new clause shall be inserted, namely :-

"(e1) a fee of Rs.30 in every case in which he is required to appear before the Bombay Revenue Tribunal;"

(G.N.L.D.No.2366 dated 17th March 1941.)

No.3.

Page 7, Rule 21 -

In rule 21 after sub-rule (2), the following new sub-rule shall be inserted, namely :-

"(2A) A Government Pleader shall be entitled to a fee of Rs.20 in every case in which he is required to appear before the Bombay Revenue Tribunal."

(G.N.L.D.No.2366 dated 17th March 1941)

No. 4.

Page 9, Rule 24A -

After rule 24 the following new rule shall be inserted , namely :-

"24-A. Fees not to be claimed under both the rule 21 and 24.- A Government Pleader shall not be entitled to claim fees under both of the rules 21 and 24 but he may at his option claim such fees as are admissible to him either u under rule 21 or under rule 24".

(G.N.L.D.No.2366 dated 17th March 1941.)

Rules for the Conduct of the Legal Affairs of Government.

No.5.

Page 15, Rules 10A, 10B and 10C. -

After rule 10, the following new rules 10A,10B and 10C shall be inserted, namely :-

"104. Establishment of the Government Pleaders.- The Government Pleaders, High Court, Bombay, has a regular permanent pensionable establishment (vide Government Resolution Legal Department, No.1399, dated the 11th August 1921).

Each District Government Pleader in the mofussil has some clerks allotted for his work from the permanent District Judicial Establishment (vide Government Resolution, Finance Department, No.3433, dated the 22nd September 1913).

105. Law Books and Official Publications.- Under Government Resolution in the Legal Department, No.2261, dated the 27th February 1939, as modified by Government Resolution, Legal Department, No.3254, dated the 3rd April 1940, each of the Law Officers in the Province of Bombay is entitled to receive law books and official publications mentioned in the said Government Resolution.

106. Stationery.- The Law Officers are also supplied with certain Government stationery (vide Government Circular No.6497, dated the 4th December 1934, and Government Memorandum No.3144, dated the 18th March 1939.)"

(G.N.I.D.No.2367 dated 17th March 1941).

No. 6

Page 19, Rule 234-

After rule 23, the following new rule shall be inserted namely :-

"234. Solicitor and Assistant Solicitor in the Legal Department are appointed as Green Pleaders.- By Government Notification in the Legal Department No.13137, dated the 18th December 1939, the Solicitor and the Assistant Solicitor to Government in the Legal Department have been appointed to be Green Pleaders for the purposes of Orders XXVII of the First Schedule to the Code of Civil Procedure, 1908(V of 1908), in relation to any suit by or against Government or any against a public officer in the service of Government in the Court of Small Causes at Bombay."

(G.N.I.D.No.2367 dated 17th March 1941).

No.7

Page 28, Rule 25A.-

After rule 25, the following new rule shall be inserted namely :-

"25A. Solicitors to Government are appointed as Crown Pleaders.- By Government Resolution in the Legal Department No.443-P, dated the 11th November 1938, the Solicitors to Government have been appointed under clause (c) of rule 8B of Order XXVII of the First Schedule to the Code of Civil Procedure,1908 (V of 1908) as Crown Pleaders for the purposes of receiving processes against Government issued by the High Court of Bombay."
(G.N.I.D.No.2367 dated 17th March 1941).

No. 8.

Page 29, Rule 26.-

In rule 26, after clause (c) , the following new clause shall be inserted, namely :-

"(cl) to engage counsel for the Crown in petitions before the Advocate General for a certificate under clause 26 of the Letters Patent."
(G.N.I.D.No.2367 dated 17th March 1941).

No.9.

Page 31, Rule 28.-

In rule 28, to sub-rule (2), the following proviso shall be added, namely :-

"Provided that if the hearing of any case extends over more than five hours on any day, additional fees shall be payable at the rate of Rs.15 for every hour of hearing after the expiration of the first five hours."
(G.N.I.D.No.2367 dated 17th March 1941).

No.10

Page 30, Rule 49 :-

In rule 49, after sub-rule (3), the following new sub-rule shall be inserted, namely :-

"(6) Nothing in this rule shall apply to cases in which a district magistrate can make a report tot the High Court under section 438 of the Code of Criminal Procedure, 1898(V of 1898)."
(G.N.L.D.No.2367 dated 17th March 1941).

No.11.

From 30. Rule 494.-

After rule 49, the following new rule shall be inserted, namely :-

"494. Procedure in cases in which the accused is a Juvenile Offender.- The procedure to be followed in any case in which the sentence passed on a juvenile offender seems to require further consideration is laid down in Government Resolution, Home Department,No.5210/3, dated the 17th June and 6th December 1938 and 21st August 1940."
(G.N.L.D.No.2367 dated 17th March 1941).

No.12.

From 77. Rule 166 -

In rule 166 -

(a) in sub-rule (1), the following words shall be added at the end, namely :-

"other than a suit relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North-Western Railway or the State Railways Coal Department;" and

(b) after subrule (2), the following new sub-rule shall be inserted, namely :-

"(3) By Government of India, Home Department, Notification No.204/37-Judicial, dated the 11th April 1940, issued in exercise of the powers conferred by rule 1, read with clause (a) of rule 93 of Order XXVII of the First Schedule to the Code of Civil Procedure,1908(V of 1908), the Central Government has authorised the officers specified in the said notification to sign and verify plaints or written statements in any suit by or against the Secretary of State or the Central Government other than a suit relating to the Eastern

Eastern Bengal, East Indian, Great Indian Peninsula or North-Western Railway, or the State Railway Coal Department."

(G.N.L.D.No.2367 dated 17th March 1941).

No. 13.

Page 81, Rule 192.-

In rule 192, the following new sub-rule shall be added, namely :-

"(3) The Solicitors to Government, the Public Prosecutor, Bombay, and the Government Pleader, High Court, Bombay are given non-contract grants for service-postage."

(G.N.L.D.No.2367 dated 17th March 1941).

S.B.Palekar,

Assistant Secretary to the Government of Bombay, Legal Department.

SMT/26.5.

Political and Services Branch.

Labour.

This concerns prosecutions relating to offences under the National Service (Technical Personnel) Ordinance, 1940.

The Govt. of India direct that the complaints should be made in writing to the appropriate Court by the Chairman of the National Service Labour Tribunal concerned and the Provincial Government should instruct the Public Prosecutors or other officers empowered by them to conduct prosecutions in criminal courts, to conduct prosecutions for offences under the ordinance in respect of which complaints have been made by the Chairman.

2. Attention is invited to the arrangements that were settled for launching prosecutions under the Bombay Industrial Disputes Act. The L.D. stated that under rules 39(d) and 46(3)(b) of the Law Officers' Rules it is the duty of a Public Prosecutor or a Sub-Govt. Pleader to conduct the prosecution in any trial before a magistrate when so required by a D.M. It was, therefore, suggested that the Commissioner of Labour should write to the D.M. and request him to direct the Public Prosecutor or the Sub-Govt. Pleader concerned to institute and conduct the prosecution. This procedure has to be followed for the present and if in actual experience it is found to be inconvenient, the rules should be amended empowering the Commissioner of Labour to issue orders direct to the Public Prosecutors and Sub-Govt. Pleaders.

As regards prosecutions in the City of Bombay, they may be conducted by the Public Prosecutor of Bombay; Vide Rules 26(d), (e) and (i) of the Law Officers' Rules.

As the Law Officers' Rules already provide for such cases no fresh orders were considered necessary by the L.D.

3. It is presumed that Public Prosecutors at District towns and Sub-Govt. Pleaders at Taluka towns will be required to conduct the prosecutions under the National Service Ordinances. All Law Officers are under the administrative control of the R.L.A. in his capacity as ex-officio Secy. to Govt. in the L.D. The L.D. may be requested to ascertain whether it is necessary to issue orders to Public Prosecutors etc. in this case and if so, which Deptt. should issue them.

Id.
20-1-41.

M. G.F.S.C(alling).
20-1-41.

U.O.N. to L.D. dated 21-1-41.

SM/26.5.

Local Department.

It is not necessary to issue any special orders at present and the procedure mentioned in paragraph 2 of the P. & S.D. office note may be followed for the present. The P. & S.D. may inform the Chairman of the National Service Labour Tribunal about the procedure which he is to follow in such cases.

Id/- P.N.M.
6/3
Secretary to Government.

U.O. to P.& S.D.,No. 2249 dated the 11th March 1941.

SNT/26.5

No.7750.

Office of the

Remembrancer of Legal Affairs,

Bombay Castle, 2nd September 1941.

CIRCULAR.

Under rule 197(3) of the Law Officers' Rules bills for fees and all other charges in civil cases are required to be submitted as soon as possible after each case has been decided. It is, however, noticed that most of the District Government Pleaders and their Assistants prefer their bills several months after the cases are disposed of. This works very unsatisfactorily in practice and seriously impairs effective control on expenditure. The Government Pleaders are, therefore, requested to submit to Remembrancer of Legal Affairs for scrutiny and counter-signature their bills for fees and lumsharges immediately after each case has been decided. The responsibility for observing the punk provisions of the Law Officers' Rules is that of the Government Pleaders themselves and they should therefore see that their bills are submitted in time. Negligence of their clerks will not be considered as a good ground for condoning delay.

Sd/-

~~P. B. MOOS,~~

for Remembrancer of Legal Affairs.

To

All District Government Pleaders,
All Assistant Government Pleaders,
All Subordinate Government Pleaders,
The Accountant General, Bombay,
All Treasury Officers.

SRT/28.5.

No. of 1941.

Belgaum, 7th May 1941.

From,

B.S.Tarnikar, Esquire, B.A.LL.B.,

Ex-Hon.Asstt. to the Govt.Pleader, Belgaum.

To,

The Remembrancer of Legal Affairs,

B O M B A Y.

S I R,

I have the honour to submit herewith my bills of fees and expenses in connection with the Misc. No.13 of 1939, on the file of the Joint Sub Judge, Belgaum, and to request you to be good enough to return the same duly ——— countersigned at an early date.

2. Copy of Court's order and the certificate for expenses incurred are ~~attached~~ attached herewith for favour of perusal. The Collector's authority No.L.P.D.239 dated 14th of February 1939, to conduct the case is kept herewith for perusal..

I have the honour to be,
S I R
Your most obedient servant,

B.S. Tarnikar, Pl.

Ex-Hon.Asstt. to the Govt.Pl.
Belgaum.

———

Respectfully submitted through the District——
Government ~~Sk~~ Pleader, Belgaum.

———

No. J- 66 of 1941.

Belgaum, 7th May 1941.

Forwarded with compliments to the Remembrancer of Legal Affairs, Bombay, for favour of compliance.

Sd/-

Dist. Govt. Pleader,
Belgaum.

Legal Department,

Bombay Castle, 13th September 1941.

Subject:- Fees:

Payment of —— to the Ex.Hon.Assistant to the District Government Pleader, Belgaum, in Misc.No.13 of 1939.

MEMORANDUM.-

The undersigned presents compliments to the Accountant General, Bombay, and is directed to convey the sanction of Government under rule 26 of the Law Officers (Conditions of Service) Rules, to the payment to Mr.B.S.Tarnikar, Ex. Honorary Assistant to the District Government Pleader, Belgaum, of a fee of Rs.15/- (rupees fifteen only) in Misc.Suit No.13 of 1939.

By order of the Governor of Bombay,

P.T.K.

For Secretary to the Government of Bombay,

Legal Department.

To

The Accountant General, Bombay (Through F.D.).

———— ——

Copy to :-

The Finance Department,

The Collector of Belgaum,

The District Government Pleader, Belgaum,

The Treasury Officer, Belgaum,

Mr. B.S.Tarnikar, Ex.Hon.Asstt. to the District Government Pleader, Belgaum.

SNT/26.5.

No.8342.

Office of the

Remembrancer of Legal Affairs,

Bombay Castle, 23rd September 1941.

Subject:- Bills of the Ex-Honorary Assistant to the District Government Pleader, Belgaum in Miscellaneous No. 13 of 1939.

MEMORANDUM.

In returning herewith two bills for Rs. 15-0-0 and Rs. 3-8-0 of the Ex-Honorary Assistant duly countersigned, the District Government Pleader, Belgaum, is informed that his action in entrusting the actual conduct of the proceedings in Miscellaneous Suit No. 13 of 1939 to his Honorary Assistant was in contravention of the provisions of Rule 47(4) of the Bombay Law Officers' Rules and that he should follow the provisions of this rule in future.

Id/- R.T.K.

for Remembrancer of Legal Affairs.

To

The District Government Pleader,

Belgaum.

SHT/26.5.

No. 19 of 1941.

Deorukh.

18th March 1941.

From

The Sub-Govt. Pleader

Deorukh.

Dist. Ratnagiri.

To:

The Remembrancer of Legal Affirs of Govt.

Secretariat, Bombay.

Sir,

I beg to send herewith contigency bills for expenses & fees incurred in R.D.No.500/1938 of the ~~subjedges~~ Sub-Judge's Court Deorukh Dist. Ratnagiri, Which may please be countersigned and returned.

This darkhast was in respect of this ~~fees~~ due to Govt. and was filed under instructions from the Collector of Ratnagiri. dated 15.8.38, against the immovea-ble property of accused Shaoji Bhawanrao Surve. This is now sent to the Collector for sale according to Law.

The expenses were incurred by me as there was no advance with me. The Certificate of expenses and a receipt are attached with the bill.

I beg to remain,

Sir,

Your most obedient servant,

Sd/- D.G. Shelke

Subordinate Government Pleader,
Deorukh, Dist. Ratnagiri.

SNT/28.5.

No.8004.

Legal Department,

Bombay Castle, 13th September 1941.

Subject:- Fees and Law charges:
Payment of —— to the Sub-Government Pleader, Deesdih in Reg.Darkhast No.500 of 1938.

MEMORANDUM.

The undersigned presents compliments to the Accountant General, Bombay, and is directed to convey the sanction of Government under rule 26 of the Law Officers (Conditions of Service) Rules, to the payment at to the Sub-Government Pleader, Deesdih of a fee of Rs. 1-4-0 (rupees one annas for only) and sundry writing charges of Rs.2-0-0 (rupees two only) in Reg.Darkhast No. 500 of 1938.

By order of the Governor of Bombay

141-R.T.K.

For Secretary to the Government of Bombay,
Legal Department.

To

The Accountant General, Bombay (Through F.D.)

Copy to :-

The Finance Department,
The Collector of Ratnagiri,
The District Government Pleader, Ratnagiri,
The Treasury Officer, Ratnagiri,
The Sub-Government Pleader, Deesdi

SMT/28.5.

No.8351.

Office of the
Remembrancer of Legal Affairs:

Bombay Castle, 23rd September 1941.

Subject:- Bills of the Sub-Government Pleader, Deorukh in Reg.Darkhast No.500/1938.

Memorandum.

In continuation of Legal Department memorandum No. 8004, dated the 13th September 1941, the Sub-Government Pleader, Deorukh, is informed that the writing charges of the darkhast have been sanctioned as a special case and that it should not be regarded as a precedent, that such writing charges are not ordinarily claimed by the Sub-Government Pleaders and will not be sanctioned by Government unless it is shown that the Sub-Government Pleaders had to incur special expenditure in this connection.

2. The bills for Rs. 1-4-0 and Rs. 8-15-0 are returned herewith duly countersigned.

Sd/- R.T.K.

For Remembrancer of Legal Affairs.

To

The Sub-Government Pleader, Deorukh.

Through the District Government Pleader,

Ratnagiri.

MT/28.5.

No. DAIII/SD/1334

Bombay 6th October 1941.

FROM

THE ACCOUNTANT-GENERAL,

BOMBAY,

TO

The Remembrancer of Legal Affairs,
Legal Department,
Bombay.

Subject:- Application of Rule 24 of Law officers rules.

SIR,

I have the honour to submit herewith a case for favour of your opinion with reference to the above mentioned rule.

Rao Bahadur B.S.Sankar District Government pleader, Dharwar performed a number of journeys in the month of May from Dharwar to Coorg (Vide Bill and papers attached). In the course of scrutiny of the bill it was noticed that fees at Rs.25/0/- were claimed on 11.5.41 and 1.6.41 through the timings of the attendance in the court were up to 6p.m. & 6-30 P.M. respectively on the previous dates and there was no work to be done on 11.5.41. and 1.6.41. The District Government pleader explains (Vide explanation attached hereto) that after the court work was over he had to discuss some points with the investigating officer in charge and as it was late in the evening he halted for the night.

The rule in question does not state what sort of absence should be regarded as necessary nor does it appear fair in the interests of Government that an officer should be able to claim the fees in full merely by staying overnight at a place. It is therefore requested that this office may be informed very early whether such a claim should be admitted in audit.

The papers sent herewith may please be returned when done with.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/-

Assistant Accounts Officers

SRT/28.5.

No.10049 169.

Office of the

Remembrancer of Legal Affairs.

Bombay Castle, 22nd November 1941.

From

P. M. Moos, Esquire, Bar-at-Law, I.C.S.,

Remembrancer of Legal Affairs;

To

The Accountant General,

Bombay.

Subject:- Application of Rule 24 of Law Officers' Rules.

Sir,

With reference to your letter No.D.A.III/SD/1334, dated the 6th October 1941 on the above subject, I have the honour to state that ordinarily the law officer concerned must for the purposes of rule 24 use his own discretion in determining the duration of his "necessary" absence from headquarters on duty and unless such absence is obviously unnecessary it would not be right to reject the claim. In the present instance in view of the explanation given by the District Government Pleader and Public Prosecutor, Dharwar, his absence on the two Sundays in question viz. 11-5-1941 and 1-6-1941. was incidental to his work on the preceding days and necessitated by it. His claim for food is therefore admissible under the Rule 24 and 23 of the Law Officers' (Conditions of Service) Rules as they stand and may be admitted in audit.

The papers received with your letter referred to above are returned herewith.

I have thek honour to be,

Sir,

Your most obedient servant,

Sd/-

For Remembrancer of Legal Affairs.

SMT/28.5.